

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	CASE NO. 17-32826-H4-13
	§	
DAVID WAYNE PIPER	§	CHAPTER 13
	§	
DEBTOR	§	

**GL & L HOLDINGS, LLC'S RESPONSE TO
TRUSTEE'S MOTION TO DISMISS OR CONVERT**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES GL & L HOLDINGS, LLC, a secured creditor, by and through its attorney, and files this, its Response to Trustee's Motion to Dismiss or Convert (Doc. #27), and would show the Court as follows:

- I. To the best of GL & L HOLDINGS, LLC's information and belief, Debtor's Plan Summary and Statistical Cover Sheet to Proposed Plan (Doc. #15, pgs 32-33) fails to correctly list the arrearage owed to GL & L HOLDINGS, LLC for the property located at 810 Martin St.
- II. Debtor has failed to make payments to the Trustee to fund the Chapter 13 Plan pursuant to the Plan Summary filed in the instant case. Debtor has failed to pay \$4,274.30 per month for June and July 2017 leaving the proposed Plan in arrears \$8,548.60.
- III. Debtor's failure to file and or furnish Federal Income Tax Returns for the preceding tax years is an abuse of the bankruptcy process.
- IV. A Uniform Plan has not been filed and Debtor only proposes funding by way of the May 16, 2017 Summary and Statistical Cover Sheet. Further, Debtor has failed to submit an ACH, EFT or Employer Order to fund his Plan and such is prejudicial his creditor, GL & L HOLDINGS, LLC.

AFFIRMATIVE RESPONSE

1. GL & L HOLDINGS, LLC is a secured creditor of DAVID W. PIPER.
2. On July 10, 2013, DAVID W. PIPER executed a Note in the original principal amount of \$250,250.00 payable with interest according to the terms therein recited. GL & L

HOLDINGS, LLC is the owner and holder of the Note and the indebtedness evidenced thereby. The Note was secured by Deed of Trust executed of even date for the property:

THE SOUTH ½ OF TRACT 45 OF LOWELL ACRES, AN ADDITION IN HARRIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 655, PAGE 426 OF THE DEED RECORDS OF HARRIS COUNTY, TEXAS; THE PROPERTY MORE COMMONLY KNOWN AS 810 MARTIN ST., HOUSTON, TEXAS 77018.

3. This note is interest only until maturity. The maturity date of the Note is sixty (60) months from the date of the Note. Debtor has failed to maintain monthly interest payments as provided by the note. Payments due to Movant under the Note total \$81,400.79, which consists of monthly payments of \$3,176.00 due December 1, 2015 through July 1, 2017, late fees of \$10,731.70, and legal fees of \$7,079.09. The Note was accelerated under its terms and \$321,104.58 is due and owing to Movant at this time. Debtor has additionally failed to pay \$10,456.49 in property taxes for Movant's collateral further jeopardizing Movant's security interest.

4. On July 10, 2013, Debtor executed a Designation of Homestead Affidavit affirmatively declaring the subject property was not his homestead. At that time, Debtor claimed to reside at 206 Leago Street, Houston, Texas 77022. In three bankruptcy filings by spouse, Sharon Piper, she declares she lives with Debtor David Piper and no claim was made that the 810 Martin property is homestead.

5. The only other creditor identified in Debtor's Schedule D is Ann Harris Bennett, Tax Assessor-Collector for Harris County.

6. GL & L HOLDINGS, LLC attempted at least six foreclosures on 810 Martin Street. Each foreclosure attempt by the note holder was arrested by the serial bankruptcy filings of the Piper family with which this Court is familiar. The Pipers are responsible for four (4) bankruptcy filings since June 2016 in the Southern District of Texas: Bankruptcy Case Number 16-32936 filed by spouse Sharon Piper June 7, 2017 dismissed June 23, 2016; Bankruptcy Case Number 16-34394 filed by spouse Sharon Piper September 2, 2016 dismissed September 21, 2016; Bankruptcy Case Number 16-36161 filed by spouse Sharon Piper December 5, 2016 dismissed January 5, 2017; and the instant case, Bankruptcy Case Number 17-32826, of DAVID WAYNE PIPER filed May 2, 2017. The three filings in 2016 resulted in dismissals with no discharges, with no proposed Plans, schedules, or payments. The latest chapter in this abuse of the

bankruptcy court took place when David Wayne Piper filed his chapter 13 proceeding May 2, 2017, on foreclosure date just before 810 Martin Street was to be sold at foreclosure by GL & L HOLDINGS, LLC. There was also, after the Sharon Piper filing in December 2016, the foreclosure posting was arrested by an ex parte restraining order from the state district court involving a new suit against GL & L HOLDINGS, LLC. There was no service and the case was dismissed.

7. Following the current bankruptcy filing by David Wayne Piper, the latest bankruptcy filing, GL & L HOLDINGS, LLC filed a Motion for Relief from the Stay (Doc. #31) in rem to allow it to exercise remedies with respect to 810 Martin Street including proceeding with its rights to a non-judicial foreclosure.

8. Debtor has filed no Plan, made no payments, filed no creditor matrix, and the Trustee has moved to dismiss. Because Debtor's current chapter 13 filing is subject to immediate dismissal or dismissal at any time before this Court considers GL & L HOLDINGS, LLC request for relief from stay, this Court may not have an opportunity to grant GL & L HOLDINGS, LLC any long term relief in its attempt to foreclose. GL & L HOLDINGS, LLC opposes a dismissal of this case without prejudice. If such a dismissal without prejudice is ordered, DAVID WAYNE PIPER, or PM Holdings LLC (affiliate of Debtor) or any other affiliate could conceivably by a bankruptcy filing stay a foreclosure sale of the property. In this connection, GL & L HOLDINGS, LLC would argue if this case is dismissed without further order prohibiting further filing, such dismissal of DAVID WAYNE PIPER's present case could allow Debtor to stop a subsequent 2017 foreclosure with another skeletal, noncompliant filing.

REQUEST FOR RELIEF

9. In the event that the court grants Trustee's Motion to Dismiss or Convert (Doc. #27), GL & L HOLDINGS, LLC asks the court to consider Piper family's history of abusive bankruptcy filings and that any dismissal of Debtor's bankruptcy case be made with prejudice for a period of 180 days so that GL & L HOLDINGS, LLC is not delayed or prejudiced any further and so that it may post for foreclosure immediately.

10. Alternately, GL & L HOLDINGS, LLC requests the court consider resetting Trustee's Motion to Dismiss or Convert to the same day as GL & L HOLDINGS, LLC's Motion for Relief from Stay hearing.

WHEREFORE, PREMISES CONSIDERED, GL & L HOLDINGS, LLC prays that the Court reset the hearing on Trustee's Motion to Dismiss or Convert or enter an order dismissing Debtor's bankruptcy case with prejudice for a period of 180 days and for such other relief to which it is entitled.

Respectfully submitted,

LAWRENCE LAW FIRM

/s/ Paul R. Lawrence

PAUL R. LAWRENCE

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served upon the parties listed below, including Debtor, Attorney for Debtor, Trustee and United States Trustee, by electronic mail or first class United States Mail, postage prepaid, on July 13, 2017.

/s/ Paul R. Lawrence

PAUL R. LAWRENCE

Parties Served:

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